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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,237	02/23/2004	Richard K. Staub	163.1742US01	9171

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EXAMINER

WEBB, GREGORY E

ART UNIT PAPER NUMBER

1751

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,237

Applicant(s)

STAUB ET AL.

Examiner

Gregory E. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

10/29/06

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/11/06 have been fully considered but they are not persuasive.
2. Concerning the restriction, the applicant argues that no undue burden would be placed on the examiner. The applicant further argues a lack of proper basis for the restriction.
3. The examiner disagrees and re-asserts that undue burden would be required as each of the inventions is directed to a wholly different inventive class.
4. All of the applicant's arguments are merely a restatement of the instant claim limitations. The applicant does not address the previous rejection. Nor does the applicant attempt to demonstrate why the prior art fails to meet the instant limitations. Instead the applicant has merely restated the instant claims limitations and stated the prior art fails to teach them. The applicant makes no statement addressing inherency arguments presented by the examiner. Restating the claims is a weak argument at best.
5. Concerning the applicant's prior art arguments and specifically Labib '871, the applicant argues that Labib fails to teach 1) delivery arm; 2) spray diverter; and 3) an opening in the delivery head.
6. Labib is clearly aware of varying liquid and gas pressures (see par 86), the delivery of the fluid via pipe segments (aka delivery arm), a spray diverter (aka valve 64), and obviously the opening in the delivery head is required for fluid flow. Thus there is nothing in the instant claims that is either unobvious or not anticipated by the Labib. Although Labib may use different terms such terms are synonymous with the applicant's terminology.

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7. The fact that the applicant would argue the reference fails to teach an opening in the delivery head show that the applicant is looking for identical terminology and phrases and not looking at the art as a whole. The applicant should realize there are many different ways of stating the instant claim and should not rely on the references for exact matching language. For example spraying a fluid cannot happen without an opening in the delivery head. Stating that the prior art fails to teach an opening in the delivery head demonstrates the applicant's lack of knowledge in spray cleaning.
8. Concerning Hei et al, the applicant argues that Hei fails to teach "a vessel with multiphase cleaning composition."
9. Clearly the applicant has not read the rejection. On page 16 of the rejection, the examiner clearly stated "During the process, the accumulated treatment composition containing substantial quantity of the odor compounds and the oxidized odor compounds are removed from the process equipment and directed to on-site treatment or municipal sewage treatment plants." On page 15 of the rejection it is clearly shown that these are indeed two phase compositions.
10. Again the applicant argues no openings in the delivery head. The examiner wonders how Hei would be spraying the two phase fluid without an opening. The applicant is clearly relying on their own lexicography as a basis for allowance.
11. The applicant repeats the same arguments for the remainder of the reference and does not address the examiners rejection. The applicant is merely restating the claim limitations and stating that the prior art fails to teach the limitation.
12. Should the applicant be able to explain how the prior art is spraying fluids without "an opening in the delivery head" the examiner would be willing to withdraw previous rejections.

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13. It is the applicant's burden to address the previous rejection. Properly addressing the rejection does not mean restating the claim limitations or relying on a specific lexicography. The applicant should be able to demonstrate specific reasons why the instant claims were not met.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 571-272-1325. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglass McGinty can be reached on (571)272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gregory E. Webb
Primary Examiner
Art Unit 1751

gew